

2. On May 28, 2004, Plaintiff filed a second lawsuit in the District Court for the District of Columbia ("Second Lawsuit"). The parties jointly moved to have that action transferred to this Court, and transfer was granted on August 21, 2004.

3. On September 14, 2004, this Court acknowledged transfer of the Second Lawsuit. On October 26, 2004, this Court entered a scheduling order in the Second Lawsuit. That scheduling order provided for a discovery cutoff of March 10, 2005. However, as of that date, the Court still had not received transfer of the First Lawsuit.

4. On October 7, 2004, Plaintiff filed a third lawsuit in this Court that was related to the first two ("Third Lawsuit"). Plaintiff sent a waiver of service to Defendants, which is being signed and returned to Plaintiff's counsel as of this date.

5. Because the First Lawsuit had not been transferred to this Court from the District of Columbia, plaintiff's counsel contacted both courts in an attempt to resolve the issue. Due to these efforts, on November 29, 2004, the First Lawsuit was transferred to this Court.

6. On or about December 13, 2004, Plaintiff moved to amend his complaint in the First Lawsuit and consolidate all three lawsuits. Defendant did not oppose this motion, and it was granted on January 11, 2005.

7. Because of the D.C. court's delay in transferring the First Lawsuit, the parties have been unable to conduct discovery and otherwise proceed with litigating their case. Since the First Lawsuit was not pending in any court (it had been closed in D.C.), and since the Third Lawsuit had not been served, the parties would have been required to conduct discovery in a piecemeal fashion, limited to the issues in the Second Lawsuit only. Discovery on the issues raised in the First and Third lawsuits would have to wait until those suits were transferred and served, respectively.

8. At this time, there is a Scheduling Order in the Second Lawsuit dated October 26, 2004, with a discovery cutoff of March 10, 2004. Accordingly, the parties jointly request that the Court modify that scheduling order in order to permit time for discovery and dispositive motions in all three cases (now consolidated). The parties propose the existing Scheduling Order be modified as follows:

Defendants' response to amended and consolidated complaint	February 25, 2005
Plaintiff's Rule 26(a)(2) disclosures re experts	July 1, 2005
Defendant's Rule (26)(a)(2) disclosure re experts	July 29, 2005
Plaintiff's rebuttal Rule 26(a)(2) disclosures <u>re</u> experts	August 12, 2005
Rule 26(e)(2) supplementation of disclosures and responses	August 19, 2005
Discovery deadline: submission of status report	September 16, 2005
Requests for admission	September 23, 2005
Dispositive pretrial motions deadline	October 14, 2005

For all of the foregoing reasons, the parties submit that good cause exists for issuing a new scheduling order in this case, and they request that the Court modify the scheduling order as set forth above.

Dated: February 9, 2005

/s/ Patricia G. Butler

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